

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 6TH FEBRUARY 2007 / 17TH MAGHA 1928

FAO.No. 27 of 2007()

AGAINST THE ORDER DATED 13/12/2006 IN IA 1620/2006 IN
OS.217/2006 of PRL.SUB COURT,THRISSUR
.....

APPELLANT/RESPONDENT/DEFENDANT:

T.V.JAYAKUMAR,
AGED ABOUT 56 YEARS,
S/O.THEYIIL VEETIL VELAYUDHAN,
NEDUPUZZHA DESOM, KANIMANGALAM VILLAGE,
THRISSUR DISTRICT.

BY ADV. SRI.P.K.SAJEEV

RESPONDENTS:

C.V. NARAYANAN, AGED 48 YEARS,
S/O.CHITTEZHATH VEETIL VELAYUDHAN,
KARAYAMPADAM DESOM, VARANTHARAPPILLY VILLAGE,
MUKUNDAPURAM TALUK.

BY

THIS FIRST APPEAL FROM ORDERS HAVING COME UP FOR ADMISSION
ON 06/02/2007, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN,JJ.

F.A.O.No. 27 of 2007

Dated this the 6th day of February, 2007

JUDGMENT

Kurian Joseph,J.

This appeal is against order dated 13-12-2006 in I.A.No.1620/2006 on the file of the Principal Sub Court, Thrissur whereby the Sub Court granted application filed by the respondent-plaintiff. The prayer was for attachment before judgment. According to the appellant the ingredients required for an order under Order 38 Rule 6 CPC have not been satisfied in this case. Though several contentions are taken in the appeal, learned counsel for the appellant finally submits that he has no intention to dispose of the property or create any encumbrance thereon so as to defeat the claims, if any, of the plaintiff. It is also submitted that in any case if such a situation arises, the same will be done only with the leave of the court. These submissions are recorded.

2. We do not find any ground to interfere with the order

impugned in this appeal. However, in view of the submission of the appellant that he would not transfer or encumber the property, which the court below had no occasion to consider, we are of the view that the appellant should be given an opportunity to put forward these contentions and submissions before the court below and to seek appropriate reliefs or modification of the order impugned. Ordered accordingly and the appeal is disposed of reserving the above liberty.

(KURIAN JOSEPH, JUDGE)

(K.T.SANKARAN, JUDGE)

ahg.